



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-7031-N]

### Announcement Notice; Establishment of a Federally Funded Research and Development Center

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces our intention to establish a Federally Funded Research and Development Center (FFRDC) to facilitate the modernization of business processes and supporting systems and their operations.

**EFFECTIVE DATE:** This notice is effective on [ *insert date of publication in the Federal Register*].

#### FOR FURTHER INFORMATION CONTACT:

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 219 of the fiscal year 2012 Omnibus Bill requires Centers for Medicare & Medicaid Services (CMS) to issue a **Federal Register** notice that outlines how a CMS Federally Funded Research and Development Center (FFRDC) would meet the specific requirements identified in Federal Acquisition Regulation (FAR 35.017-2), CMS' agency procedures that ensure small business competitiveness is maintained, and the outline of a transparent award and governance process to be employed by the CMS FFRDC. This notice is CMS' intent to sponsor an FFRDC, which complies with FAR 35.017-2 as discussed below.

CMS has a need for assistance in developing requirements, identifying strategies for meeting statutory and programmatic requirements, analyzing existing CMS systems and approaches to meeting needs and developing metrics and measures for assessing agency performance. Meeting these various needs will require the services of an organization that will have access to confidential and proprietary agency information. An FFRDC would be appropriate to provide these needed services. CMS has surveyed the existing FFRDCs and does not believe that there is an established FFRDC that could effectively meet all of its requirements. Currently, CMS has obtained specialized consulting services from the Internal Revenue Service (IRS) FFRDC. However, this work has been focused on the modernization of CMS' Information Technology resources in accordance with the scope of the IRS contract. The IRS FFRDC, other FFRDC's, and other Government wide contracts analyzed will not meet the needs of CMS. CMS has examined other contract vehicles available, for example, the Government Wide Acquisition Contracts, the National Institutes of Health Chief Information Officer Solutions and Partners, Alliant and (8)a Streamlined Technology Acquisition Resources for Services and the General Services Administration schedules. Based on a market assessment of those vehicles, there is not a single source to fit CMS' unique needs. In addition, since the contractors on these contract vehicles have other Government contracts and compete for business, it may interfere with their ability to maintain objectivity and independence for the sponsoring agency, which cause conflicts of interest concerns. Therefore, it is appropriate to establish an FFRDC for CMS, since existing alternative sources cannot satisfy current and future agency requirements.

CMS proposes to establish an FFRDC to encompass all of CMS' needs, including those associated with the Patient Protection and Affordable Care Act (Pub. L. 111-148), which was enacted on March 30, 2010 (the Affordable Care Act), and other current and future statutorily

driven requirements. There is a need for an independent organization to assist in strategic/tactical planning and analysis, conceptual planning and prototyping, long term acquisition planning and requirements development, organizational planning and relationship management, continuous process improvement, strategic technology evaluation, and feasibility analysis and design in the areas of policy, business operations and technology.

CMS has transmitted the required three notices over a 90-day period to the Government wide Point of Entry (Federal Business Opportunities) and published these notices in the **Federal Register** on April 13, 2011 (76 FR 20673), May 13, 2011 (76 FR 28042), and June 14, 2011 (76 FR 34713) respectively, indicating the agency's intention to sponsor an FFRDC. These notices indicated the scope and nature of the effort to be performed and requested comments.

Additionally, CMS has considered the concerns and interest expressed by many Federal Government contractors and contractor organizations to ensure the establishment of the FFRDC is operated within the parameters of its original intent.

There is sufficient Government expertise available to adequately and objectively evaluate the work of the FFRDC. Program management responsibilities for the FFRDC will be placed in CMS' Office of the Administrator, Chief Operating Office to ensure the proper use and evaluation of the FFRDC. CMS has established an Executive Steering Committee comprised of senior agency leadership to oversee and monitor performance occurring under the FFRDC. We note that the Executive Office of the President, Office of Science and Technology was notified in March 2011 of our intent to establish an FFRDC.

CMS will use established controls to ensure the costs of services under the FFRDC are reasonable. In accordance with FAR 15.404, the Contracting Officer is required to ensure the final agreed-to contract price is fair and reasonable. The CMS Contracting Officer will ensure

that any FFRDC contract costs are fair and reasonable by performing a combination of cost, price, and cost realism analysis and obtaining cost audit support, as necessary, to assess the offerors understanding of the work and to verify that the offeror has proposed realistic costs commensurate with the methods and approaches proposed. Additionally, CMS will seek competition for the establishment and award of the basic FFRDC contract to help ensure that costs are fair and reasonable.

CMS clearly defines the scope of the FFRDC's responsibilities to enable differentiation between the work that the FFRDC can perform and the work that should be performed by non-FFRDCs. The FFRDC sponsoring agreement fully describes the activities to be performed by the FFRDC as follows:

1. Strategic / Tactical Planning and Analysis.
2. Conceptual Planning and Prototyping.
3. Acquisition Assistance.
4. Organizational Planning and Relationship Management.
5. Continuous Process Improvement.
6. Strategic Technology Evaluation.
7. Feasibility Analysis and Design.

CMS will maintain a reasonable continuity in the level of support to the FFRDC. Current CMS and legislative requirements will provide sufficient activities to an FFRDC to ensure they are a viable entity to meet CMS' needs. CMS intends on awarding a single Indefinite Delivery – Indefinite Quantity contract and will issue live task orders for the offerors to propose during the competition, therefore, we will award these task orders with the award of the contract and periodic task orders will be awarded thereafter.

CMS will ensure that the organization meets all of the prescribed requirements for independence and objectivity in performing CMS' work. The sponsoring program management office will review the FFRDC regularly to ensure compliance with this requirement. The sponsoring agreement between CMS and the FFRDC will require a clause that prohibits the FFRDC from competing with other non-FFRDCs for Federal procurements. Additionally, CMS will conduct an annual organizational conflicts of interest audit of the FFRDC. The FFRDC will not perform quantity production or manufacturing of items. We note that the Secretary of the Department of Health and Human Services approved the establishment of the FFRDC on March 17, 2011.

## **II. Small Business Competitiveness**

CMS has a long-standing history of exceeding its small business goals and is committed to continuing to maintain small business participation in its programs by following established FAR and Health and Human Services Acquisition Regulation requirements to ensure small businesses are provided maximum practicable opportunity. CMS will ensure that every requirement, as part of its governance process, will be reviewed by the Department small business specialist before initiating any contracting action under the FFRDC. Additionally, contracting staff and senior executives at CMS who are responsible for meeting small business goals have a performance element established in their performance plans to ensure we maximize the use of small business contracting at CMS. Finally, the HHS Office of Small and Disadvantaged Business has directed CMS and all HHS Operating Divisions to develop a fiscal year 2012 Small Business Strategic Plan to ensure we meet or exceed our specific small business goals. We note that CMS has recently submitted this plan to HHS as requested.

### **III. Transparent Award and Governance Process**

CMS will conduct the FFRDC award in accordance with FAR 15 Contracting by Negotiation procedures. CMS posted a draft solicitation on the Federal Business Opportunities website in November 2011, soliciting comments from the industry. The final solicitation will be posted on the Federal Business Opportunities website as a full and open competition (see <https://www.fbo.gov/index?s=opportunity&mode=form&id=39f12bfda712bdd2248a8a94795fb1b3&tab=core&tabmode=list&=>). CMS will make all required public announcements of the contract award through the Federal Business Opportunity website, HHS award notice requirements and the Federal Procurement Data System. This FFRDC will be awarded via FAR 15 procedures. Therefore, all task orders awarded to the FFRDC will be submitted to the Federal Procurement Data System and will be publically available on the usaspending.gov website.

The FFRDC will be governed by an Executive Steering Committee and a Charter, managed by CMS' Office of the Administrator, Chief Operating Office, that defines CMS' policies and procedures for managing and using the FFRDC. It also provides guidelines and procedures for ensuring compliance with the Government-wide policies set forth in FAR 35.017.

Additionally, CMS will evaluate the effectiveness of the FFRDC by establishing a quality performance plan for monitoring performance of the FFRDC. The Executive Steering Committee will establish goals and objectives each year for the FFRDC that strive for improvements in operations and financial savings of CMS operations as well as all the programs CMS oversees. The Executive Steering Committee will appoint staff to create and monitor a quality performance plan for assessing these goals and objectives.

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Dated: March 12, 2012

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**Marilyn Tavenner,**

Acting Administrator,

Centers for Medicare & Medicaid Services.

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